

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRELL R. EWING, *et al.*,

Plaintiffs,

Case No. 22-11453

v.

Hon. George Caram Steeh
Hon. Patricia T. Morris

WAYNE COUNTY SHERIFF, *et al.*,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION
IN PART (ECF NO. 146), DENYING MOTIONS FOR PRELIMINARY
INJUNCTION (ECF NO. 49), TO EXPEDITE (ECF NO. 134), AND TO
SUPPLEMENT RECORD (ECF NO. 152) AS MOOT, AND GRANTING
MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF (ECF NO. 177)

On January 17, 2024, Magistrate Judge Patricia T. Morris issued a report and recommendation proposing that the court grant in part and deny in part Plaintiffs' motion for preliminary injunction. Defendants and Plaintiff Darrell Ewing filed objections, as well as supplemental filings.

With respect to reports and recommendations from magistrate judges, this court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). The court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.*

This is a civil rights case brought pursuant to 42 U.S.C. § 1983, challenging certain conditions and policies at the Wayne County Jail. In particular, Plaintiffs complain that Wayne County has violated their constitutional rights by withholding and delaying incoming mail, disallowing in-person visitation, and failing to provide outdoor recreation. They seek injunctive relief to address these practices. Magistrate Judge Morris concluded that Plaintiffs failed to provide sufficient evidence in support of their mail handling and visitation claims to warrant the extraordinary remedy of injunctive relief. With respect to Plaintiff Ewing's outdoor recreation claim, Magistrate Judge Morris recommends that the court grant an injunction requiring the Jail to allow him at least two hours of outdoor recreation, once per month, and up to twice a month if resources allow.

After the report and recommendation was issued, Ewing was released from the Wayne County Jail on March 25, 2024. ECF No. 177. Accordingly, his claim for injunctive relief is moot. *Cardinal v. Metrish*, 564 F.3d 794, 798–99 (6th Cir. 2009) (holding prisoner's claims for declaratory and injunctive relief were rendered moot by his transfer to a different facility); *Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir.1996) (same). To the extent Magistrate Judge Morris recommended that the court grant Ewing injunctive relief on his outdoor recreation claim, that portion of the report

and recommendation will not be accepted, given the mootness of his claims. The court agrees with Magistrate Judge Morris's determination that the injunctive relief claims of the other movants – Littlejohn, Richard, Groom, and Wiley – are also moot, as they are no longer held at the Wayne County Jail. ECF No. 146 at PageID 847-48.

Accordingly, IT IS HEREBY ORDERED that Magistrate Judge Morris's report and recommendation (ECF No. 146) is ADOPTED IN PART, to the extent it recommends denying Plaintiffs' motion for preliminary injunction as moot.

IT IS FURTHER ORDERED that Plaintiffs' motion for preliminary injunction (ECF No. 49), Ewing's motion to expedite (ECF No. 134), and Defendants' motion to supplement the record (ECF No. 152) are DENIED AS MOOT.

IT IS FURTHER ORDERED that Defendants' motion for leave to file supplemental brief (ECF No. 177) is GRANTED.

Dated: April 16, 2024

s/George Caram Steeh
HON. GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 16, 2024, by electronic and/or ordinary mail and also on Darrell R. Ewing #2021003642, Wayne County Jail, 570 Clinton Street, Detroit, MI 48226.

s/Lashawn Saulsberry
Deputy Clerk